

AK

Notice of Allowability

Application No.

10/713,195

Examiner

J. Derek Rutten

Applicant(s)

SUGISHITA ET AL.

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/24/07.
2. ☒ The allowed claim(s) is/are 1-42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 2/12/04, 8/19/05, 9/25/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This action is in response to Applicant's submission filed 7/3/07, responding to the 4/3/07 Office action which detailed the rejection of claims 1-38. Claims 1-4, 7, 8, 10-14, 21, 22, 30-33, 36, and 37 have been amended, and new claims 39-42 have been added. Claims 1-42 remain pending in the application and have been fully considered by the examiner.

Response to Amendment

2. On pages 14 and 15 of Applicants' Reply, filed 7/3/07 (hereinafter "the Reply"), Applicants essentially argue that the current requirements of 37 CFR 1.98 are not applicable to the 2/17/04 and 8/19/05 IDS's since they were filed before the requirements came into effect. Applicants essentially argue that the IDS's comply with 37 CFR 1.97 and 1.98 as set forth in MPEP Eighth Edition, Revs. 1 (E8R1 – Feb. 2003) and 2 (E8R2 – May 2004), respectively. This argument is partially persuasive. As pointed out by Applicants, 37 CFR 1.98 as published in E8R1 and E8R2 does not require a column for examiner's initials, identification of the application number on each page, or an IDS heading as suggested in item 2 on page 2 of the 4/3/07 Office action. However, the 8/19/05 IDS references a U.S. patent application publication. As such, E8R2 requires a legible copy of the publication (rule 1.98(a)(2)(i)) and requires identification of the publication date (rule 1.98(b)(2)). Neither a legible copy of the publication, nor identification of the publication date were included in the 8/19/05 IDS. Therefore, the IDS filed 2/17/04 has been considered, but the 8/19/05 IDS still failed to comply with the provisions of 37 CFR 1.98 as published in E8R2 and has not been considered. Use of form PTO/SB/08A and 08B, Information Disclosure Statement, to list documents is encouraged.

Art Unit: 2192

3. Applicants' labeling of Figure 37 as "Related Art" is sufficient to overcome the prior objection to the drawings. As used in the figure, the term "Related Art" is understood to be a subset of "Prior Art." Therefore, the objection has been withdrawn.

4. Applicants' amendments to claims 1 and 30 have overcome the prior rejection under 35 U.S.C. 112, second paragraph. Therefore, this rejection has been withdrawn.

5. On page 16 of the Reply, Applicants essentially argue that the prior art of record, particularly U.S. Patent 7,142,321 to Tomita et al. (hereinafter "Tomita"), fails to disclose, teach or suggest:

a prioritized update order in which the processing unit or processing units which are indirectly communicated with by said control unit are assigned a highest priority so as to be updated before any of said processing units directly communicated with by said control unit.

6. This newly amended limitation is present in independent claims 1 and 30. Applicant's arguments, see page 16, filed 10/24/07, with respect to 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) have been fully considered and are persuasive. The rejections of claims 1-37 have been withdrawn.

Information Disclosure Statement

7. The information disclosure statement (IDS) submitted on 9/25/07 was filed after the mailing date of the first Office action on 4/3/07. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

8. The information disclosure statements filed 8/19/05 and 9/25/07 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because they contain listings that do not provide the publication date of a listed patent application publication. The IDS's have been

Art Unit: 2192

placed in the application file, but the information referred to in the listings at issue have not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Allowable Subject Matter

9. Claims 1-42 are allowed.
10. The following is an examiner's statement of reasons for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, a prioritized update order in which the processing unit or processing units which are indirectly communicated with by said control unit are assigned a highest priority so as to be updated before any of said processing units directly communicated with by said control unit. These limitations are present in each of independent claims 1 and 30. The distinctions provided by the independent claims apply equally to all dependent claims. Thus all pending claims 1-42 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Ruten whose telephone number is (571)272-3703. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jdr



ERIC B. KISS
PRIMARY EXAMINER